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AUTHOR Seig, Louis
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ABSTRACT

Analysis of the spatial organization of Northeastern Arizona and the Navajo-Hopi land dispute affords the geographer ample opportunity to investigate the concepts of: cultural confrontation; spatial competition; the politics of enclaves and exclaves; the herding vs the farming economy; cross-cultural perceptions of boundaries and territories; the intrusion of a first world culture; and the survival of a fourth world culture. Historically, Anglo-Saxon policy has been one of forcing the American Indian to assimilate to the European ethic of land cultivation. Traditionally, the Navajo and the Hopi have had very different perceptions of territory, for the Navajo have been herders living in dispersed settlements, while the Hopi have been more sedentary living in nucleated villages. Failing to distinguish between the two cultures, the Federal government has imposed Anglo law upon differing Indian belief systems, resulting in perpetual conflict between the two tribes and a general distrust of the Federal government. Although this dispute will be settled via the 1974 Public Law 93-531 (final settlement of the conflicting rights and interests of the Hopi and Navajo tribes), the difficulties inherent in this dispute should be further analyzed to promote an understanding of the problems of cultural and spatial confrontation encountered in land settlement and acquisition. (JC)

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THE SPATIAL IMPLICATIONS OF THE NAVAHO-HOPI LAND DISPUTE

LOUIS SEIG

University of Louisville

U S DEPARTMENT OF HEALTH, EDUCATION & WELFARE
NATIONAL INSTITUTE OF EDUCATION

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A analysis of the spatial organization of Northeastern Arizona illustrates a great variety of concepts worthy of geographic enquiry. Some of these are: cultural confrontation, spatial competition, the politics of enclaves and exclaves, the herder vs. the farmer, cross-cultural perceptions of boundaries and territories, the intrusion of a First World culture, and the struggle for survival of what some have called the Fourth World. Consideration of each of these topics could by itself fill at least a volume. Clearly, there is not sufficient time to deal with each in detail as it applies to the Navaho-Hopi land dispute, yet we find in this particular corner of the world a microcosm which could be used to demonstrate each of these concepts, as well as others, and provide us with a better understanding of the world as a whole.

This long-time dispute is about to be settled. The final negotiations brought about by Public Law 93-531, "An Act to Provide for the final Settlement of the Conflicting Rights and Interests of the Hopi and Navajo Tribes....", which was enacted in December 1974, are currently in progress and may, by the time of this presentation, be ended. In a previous paper, I discussed the development of the Hopi Reservation--the establishment of the 1882 Executive Order Reservation instituted to protect the Hopi pueblos from encroachment by Navahos and others. In his letter of December 4, 1882, in which Agent J. H. Fleming described the recommended boundaries included in the Executive Order Reservation, he wrote:

> . . . the Moquis (Hopi) are constantly annoyed by the encroachments of the Navajos, who frequently take possession of their springs, & even drive their flocks over the growing crops of the Moquis. Indeed their situation has been rendered most trying from this cause, . . . With a reservation I can protect them in their rights & have hopes of advancing them in civilization.[1]

This letter had been written in response to a request from the Commissioner requesting recommended boundaries for a Hopi Reservation, a solution to the need for protecting the Hopis which had been sought after since 1876. The resultant reservation encompassed a rectangular shaped area in what is now Arizona (Figure 1). It was defined in an Executive Order signed by Chester A. Arthur on December 16, 1882.

The ways in which the Executive Order was written and later interpreted led to the land dispute and to its present resolution. The language was such that it "set apart (a reservation) for the use and occupancy of the (hopi) and such other Indians as the Secretary of the Interior may see fit to settle thereon."[2] At the time, approximately 300 Navahos and 1800 Hopis lived within the boundaries of the Executive Order Reservation. Commissioner Price sent a telegram to Agent Fleming on December 21, 1882, which said:

> President issued order, dated sixteenth, setting apart land for Moquis recommended by you. Take steps at once to remove intruders.[3]

The telegram was further confirmed by a letter which said:

> By telegram of this date, you were advised that a reservation has been established, by Order of the President, for the use and occupancy of the Moquis.
>
> I now transmit to you a copy of the order, by which you will see that your recommendations, as contained in letter to this office, dated December 4th (instant), have been followed as regards the boundaries of the same.

> The establishment of the reservation will enable you hereafter to act intelligently and authoritatively in dealing with intruders and mischiefmakers, and as instructed in telegram before mentioned, you will take immediate steps to rid the reservation of all objectionable persons.[4]

Reports of Navaho encroachments continued. In 1888, R. V. Belt, Chief of the Indian Division, wrote a memorandum to the Secretary of the Interior recommending military intervention. The conclusion of his memorandum stated:

> The Moquis reservation was established by Executive Order of December 16, 1882, for the Moqui and such other Indians as the Secretary of the Interior may see fit to settle thereon. It comprises no lands set apart for the Navajoes (sic) and no Navajoes(sic) have been settled thereon by the Department.[5]

Attempts were made to remove the Navahos and their flocks through military action, but they did not succeed.

Time does not permit the recounting of the entire history of the conflicts which occurred within the boundaries of the Executive Order Reservation. At some point in time, however, the interpretation of the term "other Indians" changed drastically. For example, in 1932, Commissioner Rhoads interpreted it to mean:

> . . .to take care of a large number of Navajo Indians who were then living within the Executive Order area. . . .[6]

The establishment of land management districts in the region had a great impact on interpretations of rights in the Executive Reservation. Insofar as land use was concerned, the Navaho Reservation and the 1882 Executive Order Reservations were considered to be one large administrative unit. Six of the established grazing districts extended into the Executive Order Reservation while one, District 6 encompassed all of the lands immediately surrounding the Hopi villages. District 6 was designated for the exclusive use of the Hopi while the others were designated as

joint-use area. The rights to the joint-use area were further reinforced by a decision of the Acting Solicitor of the Department of the Interior, Felix S. Cohen, on June 11, 1946. This decision also supported the position that the Navahos living within the bounds of the Executive Order Reservation were rightfully there under the meaning of the phrase "other Indians." He wrote:

> . . . Had there been any intention of disturbing the Navajos then occupying the area, it would have been a comparatively simple thing to draft the Executive order so as to create a reservation exclusively for the Hopis. But that was not done.[7]

He continued:

> . . . I do not mean to imply that the Navajos could acquire rights in the reservation through the Secretary's inaction or through his failure to exercise the discretion vested in him by the Executive order. But the Secretary is not chargeable with neglect in this matter. Throughout the years the Secretary has sought and obtained funds from Congress which have been used for the education of the children of Hipis and Havajos alike, and the grazing of the livestock of both groups has been permitted and regulated by the Secretary. This, to my mind, is conclusive evidence that the settlement of the Navajos on the reservation has been sanctioned and confirmed by the Secretary, and that their settlement is therefore lawful, resulting in the necessity of recognition of their rights within the area.[8]

On the basis of evidence such as this, the court reached three conclusions in the case of Healing v. Jones:

(1) The Hopis could no longer argue that Navahos had not been settled on the reservation validly;

(2) The Navahos could no longer take the position that they had exclusive rights and interests in any part of the Executive Order reservation; and

(3) There was no longer any doubt as to the boundaries of the area designated for exclusive Hopi use and occupancy.[9]

To discuss rights in the land and opinions about who is the injured party at this juncture would be fruitless and arid rhetoric. Joint surface and mineral rights were established in law by Healing v. Jones in 1962; partition of the surface rights was established by the public law cited above. As Senator Domenici of New Mexico said in 1974:

> Trying at this point in time to resolve this dispute based on differing perceptions of historical events in my opinion is an exercise in futility if the true objective is to provide a final settlement which recognizes the current reality and applies the most equitable principle toward its resolution.[10]

The key word and concept is perception--perception not only of motives, intentions, and historical events, but of Indians by whites and by other Indians. Consideration must also be given to perceptions of land use, territory, and life styles. In his book, The Harrowing of Eden, subtitled White Attitudes toward Native Americans, J.E. Chamberlin writes that early white arguments stated that:

> if the native people were to be expected to transcend their savage "state," and to flourish in splendid civility and righteousness, it might therefore be necessary that the traditional native environment, including the habits which were presumably adapted to that environment, would have to be itself transcended or destroyed. And the land (as well as the native people) would therefore have to be brought within the orderings of civilized existence.[11]

This idea seems to indicate that not only should Indians be "civilized" but that their life styles and use of land had to be transformed as well to fit within the European context of civilization. Perceptions of the use of property was implicit in the European idea such as that expressed by the Swiss jurist Emmerich de Vattel in the 18th century:

> . . . possession of property entailed an obligation to cultivate such property; and that "nations cannot exclusively appropriate to themselves more land than they have occasion for, and which they are unable to settle and cultivate."[12]

The point here is that Anglo-Saxon policy from the beginning was pointed toward forcing Indians to assimilate to the European ethic--to be entitled to own land, one must industrially cultivate the same in the European manner, productively. If the native American could not do this, then the land could rightfully be acquired by whites who would use it properly. In a philosophical climate of this sort, who could understand the Indian perception of territory and land use? Indeed, could anyone define what an Indian was? Clearly, not only did all Indians not look alike, they did not act alike, live alike, nor perceive their varied environments in the same way. Yet, it appears that official policy did not recognize the differences and needs of the individual Indian cultural groups. The Indian idea of community property did not fit within the Western model of individual land ownership and use. The approach to Indian policy in the 19th century was expressed in 1887 by Indian Commissioner J.D.C. Atkins, who wrote:

> It is believed that if any Indian vernacular is allowed to be taught by missionaries in schools on Indian reservations it will predjudice the pupil as well as his parents against the English language. . . . This language which is good enough for a white man or a black man ought to be good enough for a red man. It is also believed that teaching an Indian youth in his own barbarous dialect is a positive detriment to him. The impracticability, if not impossibility, of civilizing the Indians of this country in any other tongue than our own would seem obvious.[13]

What then are the Navaho and Hopi perceptions of territory? The Navaho live in dispersed settlements and are primarily herders, an enterprise which began historically with the introduction of livestock by the Spanish in the sixteenth century. The Hopi are traditionally sedentary farmers who live in nucleated villages practicing flood farming and herding. The two tribes have been competing for the same space

while operating under disparate life styles. Simpson provides a useful interpretation of the Hopi concept of land ownership:

> One of the important concepts adhered to by the Hopi, and one which many white people cannot, or do not, understand, is that of land ownership. Fundamentally, the Hopi believe they have a legitimate claim to the entire continent. However, that claim is not supported with the fervor which accompanies the claim to the ancestral lands bounded by the San Francisco Mountains, the Mogollon Rim, the present Arizona-New Mexico boundary, the San Juan and Colorado rivers. This area is replete with shrines, places of religious and ancestral importance, and is the area from which the ancestral clans traditionally migrated.
>
> Three more limited claims are to ownership of the cattle ranges, to ownership of immediate agricultural homeland, and to ownership of certain rights to the capture of eagles. No religious significance is attached to the rangeland claim, hence those claims pertaining to ancestral and home areas are the most significant.[14]

An example of the Navaho view was presented by William K. Wilson, a member of the Navaho tribe, at a Senate hearing in Winslow, Arizona, on March 7, 1973:

> The Hopis say that they need our land for the grazing of their sheep. This is not true. The Hopi do not raise sheep nor do they live on the land as we do. As you will see for yourself from your flight over the Executive order land, there are many Navaho homes spread throughout the area. Almost all of the Hopis live on top of mesas; hardly any of them use the range lands which are within district 6. I do not understand why the Hopi lawyer is now encouraging the Hopis to abandon their way of life. (Emphasis mine).[15]

The Hopi view was presented by Abbot Sekaquaptewa at the same hearings:

> We are accused by the Navajo of not using the land. Our fathers and grandfathers ranged vast herds of cattle far beyond the bounds now established by the jointly owned reservation. . . . The cattle began disappearing soon after Navajo squatters began settling in this area. We are also accused of not using the land because we do not roam about the land like nomads.

> Are we to be required to change our lifestyle just to accommodate the Navajo concept of possession? Why should we be required to live by someone else's standards or lack of them? (Emphasis mine).[10]

Who is right? It seems to me that the disparity of perceptions of the three involved cultural groups leads to a "no-win" situation. The imposition of Anglo law on Indian belief systems and perceptions of territorial rights creates a loss of territory by, and resettlement of, Navahos and a continued distrust of the Federal Government. The Hopi enclave remains, no matter what the disposition of land; there is, and will be, no exit from the Hopi reservation without passing through the Navaho reservation.

Competition for space has been the root cause of many difficulties throughout the history of the world. The settlement of the New World has been no exception. The Navaho-Hopi land dispute points up with great clarity the difficulties which have been involved. What then is the role of the geographer? We must make strong efforts to analyze the cultural and spatial confrontations which occurred in our history of settlement and land acquisition. This, I believe, is a challenge which we must meet in the near future.

Footnotes

[1]Quoted in Appendix to Healing v. Jones, reproduced in Partition of the Surface Rights of Navajo-Hopi Indian Land, Hearing before the Committee on Indian Affairs of the Committee on Interior and Insular Affairs; United States Senate, Ninety-Third Congress, First Session, March 7, 1973, Winslow, Arizona(Washington, D.C.: GPO, 1973), p 323.

[2]Quoted in Partition of the Surface Rights....,op. cit., p. 208.

[3]Ibid., p. 326.

[4]Ibid.

[5]Ibid., p. 329.

[6]Ibid., p. 372.

[7]Ibid., p. 404.

[8]Ibid., pp 404-405.

[9]Ibid., p. 312.

[10]Navajo-Hopi Land Dispute, Hearing before the Committee on Interior and Insular Affairs; United States Senate, Ninety-Third Congress, Second Session, July 24, 1974 (Washington, D.C.: GPO,1974) p. 98.

[11]J. E. Chamberlin, The Harrowing of Eden(N.Y.: The Seaburg Press, 1975), p. 5.

[12]Cited in Ibid., p.7.

[13]Report of the Commission of Indian Affairs, 1887, pp. XXII-XXV.

[14]Ruth D. Simpson, The Hopi Indians, Southwest Museum Leaflets No. 25 (Los Angeles: Southwest Museum, 1953) p. 81.

[15]Partition of the Surface Rights....op. cit.,p.73.

[16]Ibid., p. 121.

Figure I (a map) deleted because of illegibility